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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

(Head notes prepared by M. P. Burks, State Reporter.)

VIRGINIA & TENNESSEE COAL & IRON CO. v. FIELDS AND OTHERS.

Decided at Richmond, December 3, 1896.—*Keith*, P:

1. EJECTMENT—*Confession of judgment by one defendant.* It is not error to permit a defendant in ejectment to confess judgment in favor of the plaintiff when not induced to do so by any improper motive, or with intent to injure or embarrass his vendee and co-defendant.

2. EJECTMENT—*Record of another suit as evidence—Exhibits—Waiver of objection.* In an action of ejectment the record of another suit may be introduced for the purpose of using as evidence certain exhibits contained in the record, and for no other purpose, where the exhibits tend to prove title and are accompanied by proof of possession under claim or color of title. An objection by a defendant to the introduction of a record in evidence is waived by his subsequently introducing the same record.

3. EJECTMENT—*Reservation in deeds.* A plaintiff in ejectment may introduce in evidence a deed for the purpose of supplying a link in his chain of title by means of the reservation contained in such deed from which a grant to him may be presumed as against the defendant.

4. COMMISSIONER'S DEED—*Direction to execute—Confirmation.* Where a commissioner of court is directed to sell a tract of land and on compliance with the terms of sale to convey the same to the purchaser, and he makes such sale and conveyance and reports the same to the court which confirms the right, this is a sufficient confirmation of the deed, though no deed or copy thereof is returned with the report.

5. DEEDS—*Interlineations—Defacement.* The fact that a deed contains immaterial interlineations is not sufficient to exclude it as evidence in an action of ejectment. In the case at bar if the supposed defacement of the deed was a defacement it was in an immaterial respect and the deed was properly admitted in evidence.

6. DEEDS—*Quitclaim deed—Prior unrecorded deed.* The grantee in a quitclaim deed with covenant of special warranty which purports to convey "such interest only as they (the grantors) now have, whatever that may be," takes in subordination to a prior unrecorded deed, and such quitclaim deed cannot be introduced in evidence to defeat the title deduced under such prior unrecorded deed.

7. EJECTMENT—*Particulars of defence—Arrest of judgment.* An objection that the defendant in ejectment was required to state the particulars of his defence cannot be made for the first time after verdict by motion in arrest of judgment. It should have been done by a bill of exceptions, or objection made when the court passed on the motion for the bill of particulars.